

§ 535.4 3-year carryforward and carryback of credits

(a) For purposes of this part, credits under this section shall be considered to be available to any manufacturer upon the completion of the model year in which such credits are earned under paragraph (b) of this section unless under paragraph (c) of this section the credits are made available for use at a time prior to the model year in which earned.

(b) Whenever the average fuel economy for a class of light trucks manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established in part 533 of this chapter, such manufacturer shall be entitled to credit, calculated under paragraph (c) of this section, which—

(1) Shall be available to be taken into account with respect to the average fuel economy for the same class of light trucks of that manufacturer for any of the three consecutive model years immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

(2) To the extent that such credit is not so taken into account pursuant to paragraph (b)(1) of this section, shall be available to be taken into account with respect to the average fuel economy for the same class of light trucks of that manufacturer for any of the three consecutive model years immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

(c)(1) At any time prior to the end of any model year, a manufacturer which has reason to believe that its average fuel economy for a class of light trucks will be below such applicable standard for that model year may submit a plan demonstrating that such manufacturer will earn sufficient credits under paragraph (b) of this section within the next 3 model years which when taken into account would allow the manufacturer to meet that standard for the model year involved.

(2) Such credits shall be available for the model year involved subject to—

(i) The Administrator approving such plan; and

(ii) The manufacturer earning credits in accordance with such plan.

(3) The Administrator approves any such plan unless the Administrator finds that it is unlikely that the plan will result in the manufacturer earning sufficient credits to allow the manufacturer to meet the standard for the model year involved.

(4) The Administrator provides notice to any manufacturer in any case in which the average fuel economy of that manufacturer is below the applicable standard under part 533 of this chapter, after taking into account credits available under paragraph (b)(1) of this section, and affords the manufacturer a reasonable period (of not less than 60 days) in which to submit a plan under this paragraph.

(d) The amount of credit to which a manufacturer is entitled under this section shall be equal to—

(1) The number of tenths of a mile per gallon by which the average fuel economy for a class of light trucks manufactured by such manufacturer in the model year in which the credit is earned pursuant to this section exceeds the applicable average fuel economy standard established in part 533 of this chapter, multiplied by

(2) The total number of light trucks in that class manufactured by such manufacturer during such model year.

(e) The Administrator takes credits into account for any model year on the basis of the number of tenths of a mile per gallon by which the manufacturer involved was below an applicable average fuel economy standard for a class of light trucks for that model year and the volume of that class of light trucks manufactured that model year by the manufacturer. Credits may not be applied between class of light trucks, except as determined by the Administrator to account for changes made in the definitions of classes between model years. Credits once taken into account for any model year shall not thereafter be available for any other model year. Prior to taking any credit into account, the Administrator provides the manufacturer involved with written notice and reasonable opportunity to comment thereon.